

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 55 of 2004

Surjeet Singh S/o Laxman Singh

.....Applicant

Vs.

State of Uttaranchal

....Respondent

Hon'ble Irshad Hussain, J.

Heard Sri H.C. Bhatt learned counsel for the applicant and Sri Nandan Arya learned A.G.A. and perused the record.

This petition under Section 482 of the Code of Criminal Procedure (for short 'Code') has been preferred against the order dated 4.12.2000 whereby the learned Magistrate on perusal of the material collected during the investigation and the injury report of the victim formed an opinion that instead of the offences under section 323, 324, 504 & 506 IPC under which the charge-sheet have been submitted, the case of attempt to commit murder punishable under section 307 IPC was prima-facie made out and therefore the accused were asked to be present on the date fixed so that they may be committed to court of sessions. Aggrieved by the order, a revision was preferred before the Sessions Judge which was registered as criminal revision No. 12/2001 and the same was dismissed on merit per judgment and order dated 29.7.2003.

Having gone through the record, there is no merit in the present petition because the learned Magistrate was fully justified to consider that the grievous injuries was sustained on the skull by a pointed object and then to come to the conclusion that the offence under section 307 IPC was prima-facie made out. This aspect of the matter has also been considered by the learned Sessions Judge. Even otherwise, the matter has been reconsidered afresh at the time of the submission of the arguments when the charges was to be framed in the sessions trial by the Sessions Judge. In case, no charge is required to be framed under section 307 IPC, the learned Sessions Judge may pass an appropriate order as contemplated under section 227/228 of the Code and therefore the order passed by the

Sessions Judge cannot be said to be unjust and improper. The applicant in these circumstances has to appear before the learned Magistrate so that he may be committed the court of sessions according to law.

For the reasons aforesaid, the petition lack merit and is hereby dismissed.

(Irshad Hussain, J.)

Dated 05.06.2004

Rawat